

REMARKS

Claims 1, 3-8, 14-23, and 25-28 are pending. Applicant has amended the claims to more distinctly point out features of the invention and to correct informalities. No new matter has been added. Applicant respectfully requests reconsideration and withdrawal of the rejections to the claims.

Amendments to Specification

Amendments have been made to the specification at page 1 in order to claim priority to the foreign applications.

Amendments to the Claims

Claims 3, 7, 8, 14, 15, 18-23, 27 and 28 have been amended to address claim objections based on informalities, correct typographical or grammatical errors or to more clearly disclose the invention. It is respectfully submitted that the amendments have support in the application as originally filed and are not related to patentability.

Claim Objections

The Examiner objected to claims 1, 15, 19 and 20 due to informalities. Specifically, the Examiner asserted that claims 1, 15 and 20 recite “the communication server,” for which there is no antecedent basis, and claim 19 recites “a microprocessor calculating an angle change operable a toy,” which is unclear.

With this paper, claim 1, from which claims 15 and 20 depend, has been amended to recite “a communication server,” thereby providing antecedent basis for the phrase “the communication server” in claims 15 and 20. Furthermore, claim 19 has been amended to recite “a microprocessor calculating an angle of change in a toy,” which Applicant submits is not unclear. It is respectfully submitted that the grounds for objection have been overcome and it is respectfully requested that the Examiner withdraw the objection.

§103 Rejections

Claims 1, 3-8, 14-23, and 25-28 were rejected under 35 USC §103 as obvious in view of Gabai et al. (US Patent No. 6,290,566, hereinafter “Gabai”) and Hachiya et al. (US Patent No.

6,175,857, hereinafter “Hachiya”).

It is respectfully noted that the Examiner, at page 4 of the Office action, indicates that Gabai fails to disclose “an electronic mail server supplying message information (communication) through electronic mails in a network” and asserts that it would be “obvious to one of ordinary skill in the art ... to incorporate the electronic mail server taught by Hachiya et al. into the network taught by Gabai to remotely program a virtual or actual pet (considered equivalent).” Applicant respectfully disagrees with the Examiners interpretation of Hachiya and traverses the rejection.

It is respectfully noted that Gabai is directed to an interactive talking toy and teaches inputting information to the toy through various input devices. On the other hand, it is further respectfully noted that Hachiya is directed to a method and apparatus for processing attached e-mail data and storage medium for processing program for attached data, and teaches displaying a virtual pet on a GUI screen. It is respectfully submitted that “one of ordinary skill in the art” would **not** be motivated to modify the Gabai invention with the teachings of Hachiya.

It is respectfully noted that the Examiner, at pages 4-5 and 8-9 of the Office action, relies on an asserted equivalence between a “virtual toy” and an “actual toy” in order to support the assertion that “it would be obvious to one of ordinary skill in the art ... to incorporate the [teachings of] Hachiya et al. into the ... Gabai [invention].” It is further respectfully noted that the Examiner, at page 8 of the Office action, provides an example of equivalence between “drawing a character on paper” and “drawing the same character on a video screen” in order to support the assertion of equivalence between a “virtual toy” and an “actual toy.” Applicant respectfully disagrees with the Examiner’s reasoning and submits the “actual toy” recited by the claims of the present invention is **not** equivalent to a “virtual toy.” Applicant further respectfully submits that the distinction between a “virtual toy” that exists in cyberspace and an “actual toy” that exists in the real world is supported by both the specification as originally submitted and the Gabai reference, which the Examiner seeks to modify by the teachings of the Hachiya.

It is respectfully noted that the specification as originally submitted discloses distinctions between a “virtual character” and an “actual toy” at page 5, line 23 to page 6, line 19, page 11, ll. 13-15 and page 13, ll. 13-24. It is further respectfully noted that Gabai, at col. 13, line 43 to col. 14, line 21 and FIGS. 1A-1C, discloses “toys 120” that are physically disconnected from the “computer 100” and “screen 105” on which the “animated objects 160 and 165” are “depicted”

and that the “toys 120” include items such as “a power source 125” and “input devices 140 and output devices 150” that would not exist in “animated objects 160 and 165” depicted on “screen 105” and further discloses, at col. 15, ll. 56-58 and col. 16, ll. 4-6, that the “toy 122 has been brought into range of the computer radio interface 110 ... typically into the same room therewith,” thereby disclosing physical movement of the “toy 122” that is not possible with “animated objects 160 and 165” depicted on “screen 105.” Moreover, it is respectfully noted that Gabai discloses, at col. 16, ll. 21-24, that “ the user interacts with the ... toys 122 and 126 instead of interacting with the animated objects 160 and 165,” thereby explicitly disclosing that the “toys 122 and 126” are not equivalent to the “animated objects 160 and 165” depicted on “screen 105.”

In view of the aforementioned distinctions between a “virtual toy” that exists in cyberspace and an “actual toy” that exists in the real world and in further view of the transfer of message information between cyberspace, as represented by the electronic mail server, and the actual toy in the real world with the actual toy performing according to the message information, as recited in the claims of the present invention, it is respectfully submitted that the Examiner’s example is not analogous to present invention. It is further respectfully submitted that an example analogous to the present invention would be the cyber world “animated objects 160 and 165” depicted on “screen 105” of Gabai drawing a picture on “screen 105” and, thereby, causing the real world “toys 122 and 126” of Gabai to draw the equivalent picture on piece of paper. Moreover, it is respectfully submitted that Hachiya does not disclose the type of cyberspace-to-real world information transfer that would be necessary to motivate “one of ordinary skill in the art” to modify the Gabai invention to perform according to the claims of the present invention. Further in view of the aforementioned distinctions between a “virtual toy” that exists in cyberspace and an “actual toy” that exists in the real world, independent claims 1, 25 and 26 have been amended with this paper to more clearly disclose the invention by reciting the actual toy is not a cyber character.

It is respectfully noted that Gabai discloses transfer of information between cyberspace, represented by a computer, and toys in the real world. See Gabai at col. 5, ll. 16-20, col. 6, ll. 20-27, col. 8, ll. 1-6, col. 14, ll. 45-48, col. 15, ll. 22-24, col. 15, line 67, to col. 16, line 3 and col. 16, ll. 14-18. On the other hand, it is respectfully noted that Hachiya is directed to exchanging information in cyberspace between computers via e-mail with virtual characters representing the

transfer between a first computer and a second computer. See Hachiya at col. 1, ll. 9-18, col. 6, ll. 1-5 and col. 8, ll. 7-11. It is respectfully submitted that no cyberspace-to-real world transfer of data is disclosed in Hachiya except via the “GUI picture 100” and that this transfer is not disclosed as a transfer to a toy in the real world. It is further respectfully submitted that “one of ordinary skill in the art” would **not** look to Hachiya, which discloses no cyberspace-to-real world data transfer, for ways to modify a reference, Gabai, which discloses transfer of information between cyberspace and a real world toy. Moreover, it is respectfully submitted that even if “one of ordinary skill in the art” was motivated to modify the Gabai invention by the teachings of Hachiya, the modification to the Gabai invention would **not** be to transfer message information to an actual toy via electronic mail, as recited in independent claims 1, 25 and 26 of the present invention, but rather to transfer message information via a GUI or display.

In view of the aforementioned arguments, it is respectfully submitted that controlling an actual toy via electronic mail is **not** equivalent to controlling a “virtual toy” via electronic mail since controlling an actual toy requires additional connectivity and other components not required for controlling a “virtual toy.” Therefore, it is respectfully asserted that independent claims 1, 25 and 26 are allowable over the cited combination of references. It is further respectfully asserted that claims 3-8 and 14-23, which depend from claim 1, and claims 27 and 28, which depend from claim 26, also are allowable over the cited combination of references.

CONCLUSION

In view of the above remarks, Applicant submits that claims 1-3, 14-23 and 25-28 of the present application are in condition for allowance. Reexamination and reconsideration of the application, as originally filed, are requested.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein; and no amendment made was for the purpose of narrowing the scope of any claim, unless Applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles, California telephone number (213) 623-2221 to discuss the steps necessary for placing the application in condition for allowance.

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Date: February 14, 2006

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